Petition

81-1269

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No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

Saranelle Avedisian

Petitioner

v.

Mr. and Mrs. George C. Hubbard, et al

Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Saranelle Avedisian
14613 Melinda Lane
Rockville, Maryland 20853
Pro Se 460-5573

QUESTION PRESENTED

May petitioner expect that her constitutional rights accorded to every law abiding citizen now denied so long will be speedily and rightfully restored by this Court so that life may be possible?

PARTIES to Avedisian v. Hubbard, et al

Mr. and Mrs. George C. Hubbard

Mr. and Mrs. Myron Allen

Mr. and Mrs. Paul Altman

William P. Baker, M. D.

Mr. and Mrs. David W. Baughman

Mr. and Mrs. L. C. Biser

Mr. and Mrs. Henry Boettcher

Mr. and Mrs. Richard J. Bonahue

Mr. and Mrs. Lane Bouman

Dr. William F. Brennan, Principal

Mr. and Mrs. B. J. Brown

Donald M. Caplan, Esq.

Mr. and Mrs. Noel C. Carrol

President Samuel E. Bonsack, C & P

Mr. and Mrs. Larry Chase

Edward E. Cunningham, M. D.

Mr. and Mrs. Frederick R. Dahl

Mr. and Mrs. W. T. Danahy

Mr. & Mrs. John Dunsmoor

Mr. Robert Roberts, Manager, Easy Method

Mr. and Mrs. John R. Ensminger, Jr.

Mr. and Mrs. John P. Fajnor

Mr. John A. Jeffrey, Asst. V.P., Federal Armored Express

Mr. and Mrs. William F. Ferguson

Mr. Bill Hinnant, Mgr., Firestone

Mr. and Mrs. Paul Fiscella

Mr. John Flood, President, Flood Pontiac

Ms. Bonnie C. Fox, Asst. Principal

Mr. & Mrs. Alan J. Furst

Mr. and Mrs. Raymond L. Gerard

Mr. and Mrs. Alvin Gerston

Mr. Joseph B. Good, Principal

Mr. and Mrs. Thomas L. Gregg

Mr. Mark Gustafson

Mr. and Mrs. F. M. Haas

Mr. and Mrs. Richard T. Hanold

Mr. and Mrs. John Hobbes

Mr. and Mrs. Charles T. Hodges

Mr. and Mrs. Ralph F. Hopkins

Mr. Stanton Levine, Mgr., Industrial Disposal Systems

Herbert J. Jacobs, M. D.

Mr. and Mrs. C. Jewell

Mr. and Mrs. Nelson B. Jump

Mr. and Mrs. Edward J. Kaldor

Mr. and Mrs. George J. Krizmanich

Mr. Jeff LaBreque

Mr. and Mrs. Arthur L. Levine

Mr. and Mrs. Dean Leinneweber

Mr. and Mrs. Bertram D. Litt

Mrs. Paul B. Long

Mr. and Mrs. Neal K. McNaughten

Mrs. Gertrude I. Mahn

Mr. and Mrs. John E. Manning

Lt. Robert W. George, Cdr. Md. State Police

Mr. and Mrs. Samuel A. Mawhood

Mr. Walter Mehlferber

Mr. Bernard Crooke, Chief, Montgomery County Police

Mr. Paul A. McGuckian, County Attorney, Montgomery County

Mr. and Mrs. John T. Monahan

Mr. and Mrs. Kenneth E. Mueller

Mr. and Mrs. Walter C. Mullicane

Mr. Joe Casey (or Successor), Chief, Nashville Metropolitan Police

Mr. and Mrs. Paul Nelson

Mr. and Mrs. Edward Onanian

Mr. and Mrs. John Oravec

Mr. Elgin Dempsey, Mgr., Orkin Exterminating Co.

Mr. and Mrs. Robert T. Orrence

Mr. and Mrs. Robert C. Pepper

Mr. and Mrs. Joseph M. Perriccio

Mr. Lawrence M. Wetzel (or Successor) Chief, Phoenix Police Dept.

Ms. Pat Porter

Mr. William F. Bolger, Postmaster, U.S.

Mr. W. Reid Thompson, President, PEPCO

Mr. Dan Hood, Mgr. Purolator Sec., Inc.

Mr. and Mrs. David Rabinow

Mr. Larry Blick (or Successor) City Manager, Rockville, Maryland

Mr. and Mrs. Calvin Rosenburg

Mr. Jared Stout, Chief, Rockville Police

Mr. and Mrs. Richard H. Schuum

Mr. and Mrs. Robert L. Slingluff, III

Ashby W. Smith, M. D.

Mr. and Mrs. Donovan A. Smith

Mr. and Mrs. Robert C. Speicher

Mr. Emett Bismett, Mgr., Stickley's Towing Service

Mr. and Mrs. D. F. Taylor

Mr. Hanin, Mgr. United Disposal Corp.

Mr. Tom Provost, Mgr., United Parcel Serv.

Mr. and Mrs. D. E. Van Giesen

Dr. and Mrs. Chester L. Wagstaff

Mr. and Mrs. D. W. Waldschmidt

Mr. Donald J. Heim, President WGLC

Mr. Maurice Turner, Chief, Metropolitan Police of D. C.

Ms. Susan Breakersfield, Gen. Mgr., WASH Radio and Metromedia Station

Mr. Joe Joyce, Mgr., Waste Management

Mr. Richard Crowley, Dist. Mgr., Wells Fargo Guard Services

Mr. and Mrs. Stanley B. Wexler

Mr. Dwight Case, President, WGMS AM-FM Washington's Fine Arts Station

Mr. Otis White, Principal

Russell P. Baker, U. S. Atty. for Md.

Mr. Andy Ockershauson, President, WMAL

Mr. and Mrs. Edward C. Wratten

Mr. and Mrs. Miles M. Zich

William C. Smith, (Successor to Griffin Bell), U. S. Attorney General

Solicitor General, Justice Dept.

TABLE OF CONTENTS

	Page
Question Presented.....	i
List of Parties.....	ii
Table of Contents.....	viii
Table of Authorities.....	ix
Opinions Below.....	1
Jurisdiction.....	1
Constitutional Provisions and Statutes Involved.....	2
Statement of the Case.....	3
Argument.....	7
Conclusion.....	30
Appendices	
Appendix A Unpublished Per Curiam Judgment.....	31
Appendix B Order of U. S. Court of Appeals for the Fourth Circuit Denying Rehearing.....	35
Appendix C Order of U. S. Court of Appeals for the Fourth Circuit Denying Mandate.....	37
Appendix D United States Constitutional Amendments and Statutes, Montgomery County Code	38-50

TABLE OF AUTHORITIES

Page

Constitutional Amendment I..... 19

Constitutional Amendment IV..... 13

Constitutional Amendment V..... 16

Constitutional Amendment VI..... 16

Constitutional Amendment XIV..... 12

Statutes

42. U. S. C. A. § 1983..... 12

42 U. S. C. A. § 1985(2, 3).....12, 21

Code

Montgomery County Code..... 12

OPINIONS BELOW

The United States Court of Appeals affirmed the district court's denial of motion in an unpublished per curiam judgment on October 2, 1981. Petitioner entered a petition for rehearing on October 15, 1981. It was denied November 19, 1981. A motion to stay the mandate was denied December 16, 1981.

Copies of the above-named orders are attached herein in the form of Appendices A through C.

JURISDICTION

The United States Court of Appeals unpublished Per Curiam Judgment was entered October 2, 1981, and its Order denying petition for rehearing filed October 15, 1981, was filed November 19, 1981. The jurisdiction of this Court is invoked under 28 U. S. C. A. 1254(1).

CONSTITUTIONAL PROVISIONS, STATUTES AND CODE INVOLVED

The federal constitutional provisions involved in this petition are United States Constitution Amendments I, IV, V, VI, VII, and XIV attached hereto as a part of Appendix D. Also attached in Appendix D are the federal statutory provisions as set out in the United States Code Annotated Title 42 § 1983 and § 1985 (2, 3), and § 35-21-Police (f) of the Montgomery County Code, and the Oath of Maryland State Police.

STATEMENT OF THE CASE

Petitioner filed a suit in the Montgomery County Circuit Court, Sixth Circuit, on July 26, 1979, when this court denied certiorari June 4, 1979. ____ U.S. ____, ____S.Ct.____, 61 L.Ed. 2d 285 (1979) (78-1560). Petitioner pleaded violations constitutional and statutory rights.

The Montgomery County Circuit Court issued summonses, and service of process was effected by certified mail on August 3, 1979. Respondents filed answers in accordance with Maryland Rules to avoid admissions of guilt.

On August 24, 1979, the federal opponents petitionerd for removal from the state court in the U.S. District Court, Maryland (B-79-1567). and later

for remand to the state court which was denied. The federal court assumed jurisdiction, citing 28 U.S.C. § 1442 (a)(1). The state court dismissed the action in a Memorandum and Order for "lack of a proper basis for jurisdiction" and for being "legally frivolous." However, the federal judge declared the order void but dismissed the case in his Memorandum and Order of December 18, 1979, for being "legally frivolous" and to avoid "abuse of process." Judgment was entered on December 20, 1979. Petitioner, in the interim had appealed to the Maryland Court of Special Appeals which was denied by Order of November 29, 1979, for lack of "final judgment" in the circuit court. A pe-

tition for reconsideration was denied December 19, 1979--the two state and federal courts' actions overlapping. Mandate issued on the same date.

Petitioner again filed an appeal in the U. S. Appeals Court (80-1011) and the court notified the parties to file briefs January 16, 1980. Petitioner timely filed her brief and appendix as required but no answering brief was filed. The federal opponents separately filed a motion to dismiss on April 2, 1980, to which petitioner filed opposition.

The appeal was denied without formally hearing from the respondents, and based on precedents in other jurisdictions, petitioner filed several successive petitions for rehearing which were

denied. A motion to stay the mandate was denied December 1, 1980.

On December 29, 1980, petitioner filed a motion to reopen the case due to newly discovered evidence in the U.S. District Court for the District of Maryland. It and others were denied without grounds. An appeal was taken in the Fourth Circuit Court of Appeals and the record forwarded by the clerk February 19, 1981, so petitioner does not understand what was submitted on June 11, 1981, as set forth in the caption to its percuriam judgment, Appendix A., p. 31. Informal briefs were requested, and petitioner and federal opponents complied. M-78-1227 and 78-1560 are incorporated by reference.

ARGUMENT

Since this court received formal notice in her first petition of April 12, 1979, of petitioner's trouble with illegally combined private persons and police in several jurisdictions, her legal condition has gotten worse.

However, in petitioner's opinion, there is now ample proof to support her allegations. The first discovery of an electronic (wireless) surveillance bug was found on December 11, 1980, in a removed wall decoration reposing under our bed. This fact was reported in a second petition to this court which a deputy clerk turned back for non-conformance with the new

rules on December 16, 1980. He also questioned the court's jurisdiction due to the time lapse. Petitioner had thought successive petitions for rehearing kept the time running. He suggested filing a motion to reopen the case due to newly discovered evidence. Petitioner began instead to conform her petition to the new rules until oblique outside hints persuaded her to file the motion. It was denied without grounds on January 16, 1981, as was another to quash denial, and a third was posted with an appeal but was returned by the clerk in favor of filing the appeal. Informal briefs were requested by the Court of Appeals and were filed by the federal respondents

and petitioner in March, 1981. Not until October 2, 1981, was petitioner advised by the Fourth Circuit that it was too late. Petitioner finds the date significantly close to my sworn statement at my October 1 hearing in a separate but problem-related case. A lawyer would have known what to do and when. Several motions in 3 courts to appoint one at the normal fee have been refused to my prejudice.

For the better determination of merit the Maryland Appellate Practice Handbook and this court's recommended "abc's" of accuracy, brevity, and clarity are attempted to aid the court's concentration on these 19 background points:

1. Petitioner is innocent of ever

breaking any substantive law. Petitioner is slandered. An oath was taken to this effect on October 1, 1981, at a hearing in the Montgomery County Circuit Court, Rockville, in her case (#57040) against 2 Montgomery County police who she contends ticketed her and her teenage son in "bad faith" soon after writing her refused 2nd petition in 1980. At traffic court trial October 7, 1981, Silver Spring station, the judge found petitioner not guilty of a parking violation due to default (no show) of the citator. This is generally taken to be an admission of opponent's statements by the courts. Petitioner thinks the October 1, 1981, oath and showing of known bugging devices was a material

factor in the default. Without any of the other following data, this one default, in petitioner's opinion, is sufficiently significant to grant this writ; to order trial on the merits; and to grant restitution. I submit to this court that with legal counsel to take charge of an investigation, dozens of witnesses can testify to the truth of my accounts.

2. The continuing gossip stemming from name-calling caused neighborhood residents to organize an investigation of and to pressure, and attempt to control petitioner in strong-arm fashion.

3. The organization expanded, secretly, to include police who arbitrarily intruded on petitioner's privacy

and security, violating "due process" guaranteed by Amendments 5 and 14 of the Constitution which they take an oath to uphold, and § 35-21(f) of the Montgomery County Code. Appendix D, p.49

4. The police involved others at will to provide both physical and electronic surveillance in violation of "equal protection" and other "rights, privileges, and immunities" discriminating by singling petitioner out on the basis of secret dealings with the community. U.S.C.A. §§ 1983, 1985, Amendment 14. Appendix D. p. 42, 43.

In 1977, the police refused petitioner's request to search her cars for bugs.

5. In 1974, the media began to hint

6. In 1974, petitioner was followed cross-country by police and their agents, arrested and jailed without "probable cause," in violation of Amendment 4. Appendix D, p. 39.

7. Petitioner delayed taking action thinking, wrongly, more harm than good would come to her family by publicity.

8. The mob stranglehold has grown more powerful and efficient despite legal action. Delays have brought additional irreparable harm.

9. The respondents have filed only standard obligatory denials in the state court, exceptions noted for federal replies.

10. The federal district court, following petitioner's filing in the

state court in July, 1979, assumed jurisdiction on legal maneuvers by federal respondents but dismissed the case, and thereby erred for the second time on the basis of (h), p. 17.

11. The U.S. Appeals Court sent notice in January, 1980, to the parties to file briefs.

12. Only the petitioner complied. Federal respondents filed a motion to dismiss, based on the district court's erroneous dismissal, 7 days after date set for reply briefs. Petitioner filed opposition when apparently a motion for judgment by default would have been the proper action. A lawyer would have known what to do. The appeals court erred in not granting judgment by

default on its own motion in the interests of justice to the plaintiff.

13. The appeals court erred in failing to recognize meritorious facts not formally available to the district court in the form of petitioner's appendix to the 1980 brief and late interrogatories. The effect was suppression of facts detrimental to the respondents.

14. The appeals court erred when it did not act on petitioner's motion for judgment by default, May 12, 1980.

15. The appeals court erred in dismissing petitioner's appeal without requiring an answering brief, and answers to interrogatories though untimely as petitioner contends it could through the provision of Federal Rule of Civil Pro-

cedure discovery Rule 30(b): "or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression."

16. Successive petitions for rehearing (pointing out defaults, declaring innocence, and requesting en banc participation and a poll of the court) were denied, to petitioner's prejudice.

17. Two motions for appointment of counsel at the normal fee were denied to petitioner's prejudice.

18. The denials are violations of constitutional "rights to counsel" and to "due process" and "equal protection" Amendments 5, 6, and 14, Appendix D, p. 40-43. and are prejudicial error of omission.

These errors override the too-late motion to reopen the case, etc., and fall within Supreme Court Rule 17(a) "...departure from accepted and usual course of judicial proceedings..as to call for this Court's power of supervision."

19. The conditions originally described in 1978 are the worse for entrenchment. "Life isn't worth living" to quote her then 15-year-old son.

Some important facts to be learned by answers to the interrogatories inferred by petitioner:

(a) did respondent learn from bugged conversation with petitioner's mother in 1976 that probably respondent's husband made the obscene calls to his

own wife on their unlisted number at their former residence?

Did the interceptors sit on the truth for almost 3 years until they told it to beat petitioner to it in her 1979 petition?

Petitioner's appendix to the 1980 court of appeals brief includes what she considers to be verification of bugging as above in 1st paragraph of (a).

(b) did respondents cause petitioner's mail to be screened or controlled in any manner whatsoever?

(c) did respondent know of accidents arranged for petitioner's cars?

(d) did respondents arrange via signalling to catch the same buses as petitioner to and from work?

(e) did respondents break and arrange friendships with petitioner's children? If so, it violates 1st Amendment rights. Appendix D, p. 39.

(f) did respondents set up petitioner's then 12-year-old daughter to take the blame for arranged incident?

(g) did respondent learn petitioner's children's schedules to effect "chance" school corridor meetings via signalling, and, if so, from whom?

(h) did respondents ever admit petitioner's allegation of conspiracy as she believes they did from hints which follow, making it logical to conclude that the district court erred initially in dismissing on July 11, 1978, a case it knew to be meritorious?

Wednesday, July 5, 1978, a headline containing "insider" after the first attempt to file, July 3, 1978.

Thursday, July 6, 1978 (day not sure) "They stoop to conquer: A tale of Washington's PR Folk;" "We're Raising a Racket," (yesterday, 12-27-81, my daughter brought down racket ball rackets which she hasn't touched in 6 months when she met an acquaintance to exercise at UM. It is the latest instance of hypnotism--I'm convinced--by absentee sorcerer. Must we continue to have our lives programmed like robots?) And "Corporate Heads Mobilize," and the somewhat mocking "Stonehenge Survives," etc., used in other contexts but following the method petitioner was con-

ditioned over the years to attach a double meaning with the timing as a frame of reference.

Friday, July 7, 1978, original filing date, this heading: "From Post Offices to Track Passes, Md. Politicians Own Up."

Petitioner submits that the opposition is fighting secretly to keep a just cause out of court because it does not want to pay the restitution to which petitioner is entitled under the law (concluding lines of U.S.C.A. 42 § 1985, Appendix D, p. 46). Petitioner should also be compensated for lost time in the job world, to which she made an attempt to return in January, 1975. As Corpus Juris Secundum

puts it "Defendants charged with conspiracy are presumed to have intended the natural consequences of their acts." Section 91 of 15A p. 889.

That the respondents do not care that they have devastated lives is apparent probably only to petitioner. To balance such violations of her rights they have tried to convince keepers of the pbulic trust that petitioner does not deserve recompense because they prefer to believe she was a woman of the streets.

On this question of deserving recompense, suppose the charge by some lucky fluke to the slanderer were true, and their investigation succeeded in uncovering it, such investigation would

have involved breaking these laws:

(1) Conspiring with willing cohorts (none of whom has a reason to attack) to learn who has the information we want? Who can get it?

(2) Effecting the conspiracy itself. Who is willing to approach insiders to persuade them to invade the privacy of a person they do not know, obtain and pass any such confidential information to the conspirators? From this popular base, obtaining the secret services of police was an apparent cinch. With the veneer of official action, the force was magnetic. Then, add these unlawful acts: (3) surveillance--by police, neighbors, 100's of unknowns, and "bugs," probably requir-

ing regular tresspassing (a 7th law). Known bugs: water tap screw; toilet bolt; car keys; metal ring in car horn button; probably a figure-8 link holding 3 chains to yard swing. Other objects hinted at: typewriter, bicycle handlebars, washing machine, cypress-knee clock, piano, heat register, ice skates, "duck" shoes; (4) harassment; (5) Obstruction of Justice; and (6) Slandering.

Compared to the wrongly attributed offense to me, how mean is the ruin of lives (especially children's) by such illegal actions. Even if true, the current dispute between the contending parties is what is at issue.

Does a court usually investigate the pasts of opposing litigants before

deciding who is the more worthy of award based on the investigation rather than on the merits? If so, let us begin now with the other side.

Since the petitioner asserts the entire campaign is based on slander, this passage is worthy of inclusion:

> Vice hath not, I believe a more abject slave; society produces not a more odious vermin; nor can the devil receive a guest more worthy of him, nor possibly more welcome to him, than a slanderer.
>
> The world, I am afraid, regards not this monster with half the abhorrence which he deserves; and I am more afraid to assign the reason of this criminal lenity shown toward him; yet it is certain that the thief looks innocent in the comparison; nay, the murderer himself can seldom stand in competition with his guilt.
>
> Besides the dreadful mischiefs done by slander, and the baseness of the means by which they are

> effected, there are other circumstances that highly aggravate its atrocious quality; for it often proceeds from no provocation, and seldom promises itself any reward, unless some black and infernal mind may propose a reward in the thoughts of having procured the ruin and misery of another.

Henry Fielding, in The History of Tom Jones

Now that those who deserve the law's attention is considered, let's consider the damage factor. When concentrating on what size sum would compensate innocent people for the loss of their status, their reputation, their honor, and their liberty, the exact figure came out of the ether via radio waves: $15,000,000. I believe it was the result of conferring with damage suit specialists. My husband

has said "all the money in the world" is not enough. Considering subsequent additional harm due to delay of justice and to attempted harm, including, in petitioner's opinion, death to look accidental through hypnosis, the amount set by petitioner is not enough.

What could be more equitable than one of the misaligned setting the damages for their own wrongful acts?

And, finally, the discovery of the new evidence: Petitioner compresses years of search and thought into a few sentences to show how discovery was made of the first alleged bug by adding up the clues. The devices themselves turn out to look like ordinary household items. I thought there had

to be wires. What was the key that unlocked the meaning of these descriptions: arrow, Apache, mattresses on cars, balls, "bed bugs," circle, hollow, edge, west front, no-bigger-than-a-lifesaver, joint, tack, screw, rooster, silver, in the middle in the back, something that hangs on the wall, dust, all-weather plane (sounds like)? Repetition, partly. Frequency, partly. But it was the combination of boxspring and arrow together that led petitioner directly to wrestle our mattress to the floor, turn the boxspring on its side and "spy" a weathervane wall decoration gathering dust waiting to find a permanent storage place. I picked it up after noticing the arrow,

turned it over, and found the silver circle under a screw head at the joint of the two metal pieces, and it at that moment became my lifesaver. All the others have been found since then the same way.

The next day, it was presented at the FBI to be analyzed, but a man from the surveillance section recommended police, who, in turn involve them if they choose. I said they had refused me help in 1977. So, it still bugs us.

REASONS FOR GRANTING THE WRIT

The reasons for granting petitioner's writ, in addition to point 1 p. 9, are to restore basic rights of freedom, security, privacy, dignity and a normal life allowed to people with a good name, to petitioner so that she may not have to live in subjugation to a coalition of lawbreakers; to restore order to a community now girded together for forceful action; to obtain justice through peaceful means by law; and to preserve the integrity of the legal process.

CONCLUSION

For all the above enumerated reasons, the most important being the original error of dismissal with alleged knowledge aforethought, supported by facts herein, of plaintiff's meritorious case which has had far-reaching hard consequences; and for the subsequent errors, delays, and defaults, it is respectfully submitted that this petition for a writ of certiorari be granted; and that this court grant such other and further relief necessary to meet the demands of justice.

Saranelle Avedisian, Petitioner
14613 Melinda Lane
Rockville, Maryland 20853
460-5573
Pro Se

APPENDIX A

Unpublished Per Curiam Order decided October 2, 1981

UNITED STATES COURT OF APPEALS
For the Fourth Circuit

No. 81-1174

Saranelle Avedisian,
Appellant

v.

Mr. and Mrs. George C. Hubbard, et al
Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore. James R. Miller, Jr., District Judge.

Submitted: June 11, 1981
Decided: October 2, 1981

Before WIDENER, HALL, and PHILLIPS, Circuit Judges

(Saranelle Avedisian, Appellant Pro Se. Russell T. Baker, Jr., United States Attorney; John F. Hyland, Jr., Assistant United States Attorney, for the Appellees.

PER CURIAM:

Appellant Saranelle Avedisian commenced an action pursuant to 42 U.S.C. §§ 1983 and 1985 alleging that the defendants had violated, and conspired to violate, her civil rights. The district court found those allegations to be without merit and dismissed the action in an order entered December 20, 1979. Upon Avedisian's appeal, we affirmed the district court's disposition. Avedisian v. Hubbard, No. 80-1011 (4th Cir., August 11, 1980) (unpublished).

On December 29, 1980, Avedisian made

a "motion to reopen the case due to newly discovered evidence," which the district court denied. It is from the denial of that motion that Avedisian now appeals.

We affirm. A motion to be relieved from a final judgment because of newly discovered evidence is properly brought under Federal Rule of Civil Procedure 60 (b). In order to be timely, such a motion must be made not more than one year after final judgment was entered. Fed. R. Civ. P. 60(b); Capitol Investors Co. v. Devers, 387 F.2d 591 (4th Cir. 1967). This Court's earlier affirmance on appeal neither deprived the district court of power to act on the motion, Standard Oil Co. of California v. United States, 429

U.S. 17 (1976), nor extended the one-year period within which the motion could be timely brought. Greater Boston Television Corp. v. F.C.C., 463 F.2d 268, 280 (D.C. Cir. 1971), cert. denied, 406 U.S. 950 (1972). Thus, because Avedisian's motion was made more than one year after final judgment was entered, the motion was untimely and the district court correctly denied the motion.

Accordingly, because the dispositive issues recently have been decided authoritatively, we dispense with oral argument and affirm the district court's order.

AFFIRMED.

APPENDIX B
Order denying rehearing, Nov. 19, 1981
UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 81-1174

SARANELLE AVEDISIAN

Appellant

v.

MR. and MRS. GEORGE C. HUBBARD, et al

Appellees

O R D E R

Upon appellant's petition for rehearing en banc, there having been no request for a poll of the court,

It is accordingly ADJUDGED and ORDERED that rehearing en banc shall be, and the same hereby is, denied.

The panel has considered the petition for rehearing and is of opinion it is without merit.

It is accordingly ADJUDGED and ORDERED that the petition for rehearing shall be, and the same hereby is, denied.

With the concurrences of Judge Hall and Judge Phillips.

/s/ H. Widener, Jr.
For the Court

APPENDIX C

Denial of stay of mandate, Dec. 16, 1981.

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 81-1174

Saranelle Avedisian,

Appellant,

versus

Mr. and Mrs. George C. Hubbard, et al.,

Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore. James R. Miller, Jr., District Judge.

Upon consideration of a motion of the appellant pro se, for stay of mandate pending application to the Supreme Court of the United States for a writ

of certiorari,

IT IS ORDERED that the motion is DENIED.

For the Court-by Direction.

/s/ William K. Slate, II

CLERK

A True Copy, Teste:

William K. Slate, II, Clerk

By M. J. Kocen /s/
Deputy Clerk

APPENDIX D

UNITED STATES CONSTITUTIONAL PROVISIONS

US Const, Am I:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercize thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

US Const, Am IV:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, sup-

ported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

US Const, Am V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself

nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

US Const, Am VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining

witnesses in his favor, and to have the assistance of counsel for his defense.

US Const, Am VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

US Const, Am XIV

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States

and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

UNITED STATES STATUTORY PROVISIONS

USCA 42 § 1983

Any person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person under the jurisdiction thereof to the deprivation of any

rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

USCA 42 § 1985 (2, 3)
Obstructing justice; intimidating party, witness, or juror

(2) If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or

petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

USCA 42 § 1985
Depriving persons of rights or privileges

(3) If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen

who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an ac-

tion for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

OATH OF MARYLAND STATE POLICE

I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the state of Maryland: That I will serve honestly and faithfully to uphold and defend the Constitution of the United States and the Constitution of Maryland; that I will enforce the laws of the state of Maryland: and that I will obey the orders of the Governor and of the officer appointed over me according to the rules and regulations of the Maryland state police.

(f) Responsibility of members generally. Every member of the police shall be held responsible for the proper performance of his duties and for strict adherence on his part to the rules and regulations adopted from time to time for the government of the police, and it shall not be deemed a valid excuse or justification for anything he may do contrary to such rules and regulations, or for anything he may omit doing, that he followed the suggestion or advice of any other person, whether connected with the police or not; except, that an officer of superior rank may take upon himself the

responsibility of issuing direct and positive orders.

CERTIFICATE OF SERVICE

I, SARANELLE AVEDISIAN, HEREBY CERTIFY that 3 copies of this petition for a writ of certiorari were mailed by regular mail to each of the respondents attached hereto in a separate listing for the court, or to his attorney of record, on this 8th day of January, 1982, with revisions as directed on the original filed with this Court on December 30, 1981.

Saranelle Avedisian

Saranelle Avedisian, Petitioner
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